

S-3035

1 Amend the amendment, S-3009, to House File 45,
2 as amended, passed, and reprinted by the House, as
3 follows:

4 1. Page 16, after line 5 by inserting:

5 <DIVISION _____

6 AUTOMATIC PROGRAM SUNSET

7 Section 1. NEW SECTION. 4A.1 Definitions.

8 As used in this chapter, unless the context
9 otherwise requires:

10 1. "Agency" means the same as the term "department"
11 as defined in section 8.2.

12 2. "Committee" means the fiscal committee of the
13 legislative council created pursuant to section 2.45.

14 3. "Program" means a distinct and coherent set of
15 activities authorized by law which affects a clearly
16 definable target group, problem, or issue and which
17 can be supported by appropriations through the budget
18 process or by enactments other than appropriations, as
19 in the case of tax credits.

20 4. "Program review criteria" means the criteria
21 required to be considered under section 4A.8.

22 5. "Sunset" means the termination or repeal of the
23 law authorizing a program.

24 Sec. 2. NEW SECTION. 4A.2 Short title.

25 This chapter shall be known as and may be cited as
26 the "Iowa Sunset Act".

27 Sec. 3. NEW SECTION. 4A.3 Automatic sunset of
28 programs.

29 1. Unless provided otherwise by law, each new
30 program that first takes effect by law enacted on
31 or after July 1, 2011, shall sunset six years after
32 the program's effective date unless reauthorized by
33 enactment by the general assembly.

34 2. Unless a program is expressly exempted from
35 this chapter, if the law authorizing the program is
36 enacted on or after July 1, 2011, the law shall include
37 a sunset clause clearly indicating the date of the
38 program's repeal if the program is not reauthorized by
39 enactment by the general assembly.

40 3. Any program that is reauthorized by enactment
41 by the general assembly pursuant to this section shall
42 include a provision specifying that the program shall
43 sunset at a date not more than twelve years from the
44 effective date of the program's reauthorization.

45 4. Unless expressly provided by law, funding shall
46 not be expended on a program that has been sunset.

47 5. a. Any program to which money was appropriated
48 prior to July 1, 2011, may at any time be subject
49 to review of the committee by a majority vote of its
50 members for the purpose of recommending to the general

1 assembly its continuation or sunset.

2 *b.* If a program is subject to sunset, the committee
3 shall conduct public hearings concerning but not
4 limited to the applicability of the program review
5 criteria to the program, and shall issue a report
6 pursuant to section 4A.5. The committee may recommend
7 to the general assembly by a majority vote of its
8 members that a program under review, to which money was
9 appropriated prior to July 1, 2011, should be sunset,
10 continued, or reorganized. The committee shall submit
11 such recommendation to all members of the general
12 assembly within thirty calendar days of the vote in
13 which such recommendation is made.

14 Sec. 4. NEW SECTION. 4A.4 Information to be
15 reported by agencies to fiscal committee.

16 Before October 30 of the calendar year in progress
17 two years prior to the calendar year in which a state
18 program subject to this chapter is scheduled to sunset,
19 the agency administering the program shall report all
20 of the following information to the committee:

21 1. Information regarding the applicability of the
22 program review criteria to the program.

23 2. Any other information that the agency considers
24 appropriate or that is requested by the committee.

25 Sec. 5. NEW SECTION. 4A.5 Sunset of programs —
26 committee — duties of the committee — reports.

27 1. Before September 1 of the calendar year in
28 progress one year prior to the calendar year in which a
29 program subject to this chapter is scheduled to sunset,
30 the committee shall do all of the following:

31 *a.* Review and take action necessary to verify the
32 reports submitted by the agency pursuant to section
33 4A.4.

34 *b.* Consult with the appropriations committee of the
35 house of representatives, the appropriations committee
36 of the senate, the department of management, the
37 auditor of state, and the treasurer of state regarding
38 the applicability of the program review criteria to the
39 program.

40 *c.* Conduct a performance evaluation of the program
41 based on the program review criteria and prepare a
42 written report.

43 2. The written report prepared by the committee
44 pursuant to subsection 1 shall be submitted to the
45 general assembly with the report required under section
46 4A.7.

47 Sec. 6. NEW SECTION. 4A.6 Public hearings
48 conducted for programs subject to sunset.

49 1. Between September 1 and December 1 of the
50 calendar year in progress prior to the calendar year in

1 which a program subject to this chapter is scheduled
2 to sunset, the committee shall conduct public hearings
3 concerning but not limited to the applicability of the
4 program review criteria to the program.

5 2. Notwithstanding subsection 1, the committee may
6 hold the public hearings prior to September 1 if the
7 evaluation of the program required by section 4A.5 is
8 complete and available to the public.

9 **Sec. 7. NEW SECTION. 4A.7 Report on programs**
10 **scheduled to be sunset — auditor report.**

11 1. At the beginning of each regular session of
12 the general assembly, the committee shall present to
13 the general assembly and the governor a report on the
14 programs scheduled to be sunset. In the report, the
15 committee shall include all of the following:

16 a. The committee's specific findings regarding each
17 of the program criteria.

18 b. The committee's recommendations, as specified by
19 section 4A.3.

20 c. Recommendations on the sunset, continuation, or
21 reorganization of each affected program and on the need
22 for the performance of the functions of the program.

23 d. Recommendations on the consolidation, transfer,
24 or reorganization of programs within agencies not under
25 review if the programs duplicate functions performed
26 by programs under review.

27 e. Recommendations as to the appropriate
28 appropriation levels for each program for which sunset
29 or reorganization is recommended pursuant to this
30 subsection.

31 f. Draft legislation necessary to carry out
32 the committee's recommendations pursuant to this
33 subsection.

34 g. Any other information the committee deems
35 necessary for a complete evaluation of the program.

36 2. On the date the committee presents its report
37 to the general assembly pursuant to subsection 1, the
38 committee shall present to the auditor of state the
39 committee's recommendations that do not require a
40 statutory change to be put into effect. The auditor
41 of state shall examine the recommendations and shall
42 prepare, as part of the next scheduled audit of the
43 program, a report on the manner in which the agency has
44 implemented the committee's recommendations.

45 **Sec. 8. NEW SECTION. 4A.8 Criteria considered by**
46 **committee.**

47 The committee shall consider all of the following
48 criteria in determining whether a public need
49 exists for the continuation of a program, or for the
50 performance of the functions of the program:

- 1 1. The program's operating efficiency.
- 2 2. An identification of the objectives intended for
3 the program and the problem or need that the program
4 was intended to address, the extent to which the
5 objectives have been achieved, and any activities of
6 the agency in addition to those granted by statute and
7 the authority for such activities.
- 8 3. An assessment of less restrictive or alternative
9 methods of protecting the public in lieu of any
10 existing rule or regulation applied by the agency.
- 11 4. The extent to which the jurisdiction of the
12 agency and the programs administered by the agency
13 overlap or duplicate those of other agencies and
14 the extent to which the programs administered by the
15 agency can be consolidated with the programs of other
16 agencies.
- 17 5. An assessment of the extent to which the agency
18 has recommended to the general assembly statutory
19 changes calculated to be of benefit to the public
20 rather than to an occupation, business, or institution
21 that the agency regulates.
- 22 6. An evaluation of the promptness and
23 effectiveness with which the agency disposes of
24 complaints concerning persons affected by the program.
- 25 7. An assessment of the extent to which the agency
26 has encouraged participation by the public in making
27 rules and decisions as opposed to participation solely
28 by those it regulates and the extent to which the
29 public participation has resulted in rules compatible
30 with the objectives of the program.
- 31 8. The extent to which the agency has complied with
32 applicable requirements of all of the following:
 - 33 a. An agency of the United States or this state
34 regarding equality of employment opportunity and the
35 rights and privacy of individuals.
 - 36 b. State law and applicable rules of any
37 agency regarding purchasing goals and programs for
38 historically underutilized businesses, including but
39 not limited to the goals for small businesses and
40 targeted small businesses in this state under section
41 73.16.
- 42 9. The extent to which changes are necessary in the
43 enabling statutes of the program so that the agency can
44 adequately comply with the criteria established in this
45 section.
- 46 10. The extent to which the agency issues and
47 enforces rules relating to potential conflicts of
48 interest of its employees.
- 49 11. The extent to which the agency complies with
50 chapter 22 and follows records management practices

1 that enable the agency to respond efficiently to
2 requests for public information.

3 12. The effect of federal intervention or loss of
4 federal funds if the program is sunset.

5 Sec. 9. NEW SECTION. **4A.9 Exemption for certain**
6 **agencies.**

7 1. In the two-year period preceding the date
8 scheduled for the sunset of a program in accordance
9 with this chapter, the committee may exempt the program
10 from the requirements of this chapter relating to staff
11 reports, hearings, and evaluations. The committee
12 shall only exempt a program that has been inactive for
13 a period of two years preceding the date the program is
14 scheduled to sunset.

15 2. The committee's action in exempting a program
16 pursuant to this section requires an affirmative record
17 vote of all members of the committee.

18 Sec. 10. NEW SECTION. **4A.10 Activities of the**
19 **general assembly not restricted.**

20 This chapter does not restrict the general assembly
21 from doing any of the following:

22 1. Terminating a program at a date earlier than
23 required in accordance with this chapter.

24 2. Considering any other legislation relative to a
25 program subject to this chapter.

26 Sec. 11. NEW SECTION. **4A.11 Duration of sunset**
27 **program — procedures for terminated programs.**

28 1. *a.* A program that is sunset may continue in
29 existence to conclude its business until September 1 of
30 the fiscal year following the fiscal year in which the
31 program was sunset. Unless the law provides otherwise,
32 the sunset of a program does not reduce or otherwise
33 limit the powers and authority of the agency during the
34 concluding year.

35 *b.* A program is terminated and shall cease all
36 activities on or before the date specified in paragraph
37 "a". Unless the law provides otherwise, all rules
38 adopted pertaining to the program shall expire on that
39 date.

40 2. *a.* Any unobligated or unexpended appropriations
41 of a sunset program lapse on the date specified in
42 subsection 1 and shall revert to the general fund of
43 the state on that date.

44 *b.* Except as provided by subsection 5 or as
45 otherwise provided by law, all moneys in a dedicated
46 fund of a program that is sunset in accordance with
47 this chapter shall be transferred to the general fund
48 of the state on the date specified in subsection 1.
49 Any law or portion of a law dedicating moneys to a
50 specific fund of a program that is sunset is void on

1 the date specified in subsection 1.

2 3. Unless the governor designates an appropriate
3 agency as described in subsection 4, the property and
4 records in the custody of an agency administering a
5 sunset program on the date specified in subsection
6 1 shall be transferred to the department of
7 administrative services. However, if the governor
8 designates an appropriate agency as described in
9 subsection 4, the property and records shall be
10 transferred to the designated agency.

11 4. a. In recognition of the state's continuing
12 obligation to pay bonded indebtedness and all other
13 obligations, including lease, contract, and other
14 written obligations, incurred by a program subject to
15 sunset in accordance with this chapter, the sunset
16 of the program shall not impair or impede payment
17 of bonded indebtedness and all other obligations,
18 including lease, contract, and other written
19 obligations, in accordance with their terms.

20 b. If an agency has outstanding bonded indebtedness
21 or other outstanding obligations for a program that is
22 sunset, including lease, contract, or other written
23 obligations, the bonds and all other such obligations
24 remain valid and enforceable in accordance with
25 their terms and subject to all applicable terms and
26 conditions of the laws and proceedings authorizing the
27 bonds and all other such obligations. The governor
28 shall designate an appropriate agency to continue
29 to carry out all covenants contained in the bonds
30 and all other such obligations, and the proceedings
31 authorizing them, including the issuance of bonds,
32 and the performance of all other such obligations
33 to complete the construction of projects or the
34 performance of other such obligations. The designated
35 agency shall provide payment from the sources of
36 payment of the bonds in accordance with the terms of
37 the bonds and shall provide payment from the sources of
38 payment from all other such obligations in accordance
39 with their terms, whether from taxes, revenues, or
40 otherwise, until the bonds and interest on the bonds
41 are paid in full and are performed and paid in full.
42 If the terms of the obligation so provide, all funds
43 established by law or proceedings authorizing the bonds
44 or authorizing other such obligations shall remain
45 with the treasurer of state or previously designated
46 trustees. If the proceedings do not provide that the
47 funds remain with the treasurer of state or previously
48 designated trustees, the funds shall be transferred to
49 the designated agency.

50 Sec. 12. NEW SECTION. 4A.12 State agencies and

1 **officers to provide assistance to committee.**

2 1. The committee may request the assistance
3 of agencies and officers to assist in gathering
4 information pursuant to the committee objective.

5 2. In carrying out its functions pursuant to
6 this chapter, the committee may inspect the records,
7 documents, and files of any agency.

8 **Sec. 13. NEW SECTION. 4A.13 Department of**
9 **workforce development to assist displaced employees.**

10 If an employee is displaced because a program is
11 sunset, reorganized, or discontinued, the affected
12 agency and the department of workforce development
13 shall make a reasonable effort to relocate the
14 displaced employee.

15 **Sec. 14. NEW SECTION. 4A.14 Rights and duties not**
16 **affected by program sunset.**

17 Unless otherwise expressly provided by law,
18 the sunset of a program does not affect the rights
19 and duties that matured, penalties incurred or
20 imposed, civil or criminal liabilities that arose, or
21 proceedings initiated in connection with the program
22 before the effective date of the program's sunset.>

23 2. By renumbering as necessary.

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